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IN THE

# Supreme Court of the United States

OCTOBER TERM 1971

No. 71-742

JASPER C. GOULD and OPAL W. GOULD, his wife,

*Petitioners,*

*vs.*

AMERICAN WATER WORKS SERVICE CO., INC., a corporation, and THE BERNARDS WATER COMPANY, a New Jersey Corporation,

*Respondents.*

## PETITION FOR A WRIT OF CERTIORARI TO THE SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION

JASPER C. GOULD, *Pro Se,*
P. O. Box 636,
Bernardsville, New Jersey.

Adams Press Corp., 11 Commerce Street, Newark, N. J.—Market 3-8611-12

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*Respondents.*

## PETITION FOR A WRIT OF CERTIORARI TO THE SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION

*To the Chief Justice and the Associate Justices of the Supreme Court of the United States:*

Your Petitioners, Jasper C. Gould and Opal W. Gould, his Wife, hereby petition for a writ of certiorari to review the denial of the Petition for Certification by the

New Jersey Supreme Court and the decision of the Appellate Division of the Superior Court of New Jersey. This case arises due to the unjust hardships directly resulting from the previous case of Petitioners, Gould against the Bernards Water Company, a New Jersey Corporation which was reported in 52 N. J. 226, 245 A. 2d 14 and in which Petitioner had petitioned to this court in case No. 1042 in the October Term 1968.

## Opinion Below

The Per Curiam opinion of the Appellate Division of the Superior Court of New Jersey is appended hereto as Appendix A. The denial of the Petition for Certification made to the Supreme Court of New Jersey is appended hereto as Appendix B.

## Jurisdiction

The denial of Petition for Certification was made and entered on September 21, 1971. The Supreme Court of New Jersey offered no reason for its denial of the Petition. The statutory provision believed to confer on this Court jurisdiction to review the judgment in question is 28 U.S.C. Sec. 1256 (3).

## Constitutional Provisions Involved

Amendment V, United States Constitution: "* * * nor shall private property be taken for public use, without just compensation."

Amendment XIV, United States Constitution, Sec. 1, Clause 3: "No State shall * * * nor shall any State deprive * * * nor deny to any person within its jurisdiction the equal protection of the laws."

Amendment XIV, United States Constitution, Sec. 1, Clause 2: "* * * nor shall any State deprive any person of * * * property, without due process of law * * *"

New Jersey Constitution of 1947, Art. 1, par. 1, subsec. 1, par. 10: "All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness."

## Statement of the Case

Petitioner apologizes for this unorthodox approach but in attempting to seek justice, he realizes that substance rather than form will be understood and accepted by this court.

I am filing this petition pro se because I have already invested over $25,000.00 for services and legal fees, and my brief will elaborate on this issue.

In June of 1970, I received notice by mail that the case of *Gould* v. *The American Water Company* was to be dismissed for lack of prosecution on August 11, 1970. I immediately went to the Court House to inquire as to the meaning of this notice and told the Assistant Clerk of Court that the New Jersey Supreme Court had ruled on this case and it was closed. The Assistant Clerk told me most emphatically that the case was not closed but had been sent back to this Court for review and if I wished to object to the dismissal, I should notify the Court. This I did.

On August 11, 1970, Judge Meredith refused to let me argue my case and dismissed it for lack of prosecution.

I appealed this dismissal for lack of prosecution to the Appellate Court and was to be heard on June 1, 1971. This Court granted me two minutes of their time and refused to let me argue my brief. This panel of judges was chaired by Judge Kolovsky who also sat on the Appellate Court which reversed the jury verdict. I asked the Clerk of the Court for a transcript of the debate and was told it was not recorded. (Enclosed is the opinion of this Appellate Court—Appendix A.)

I then petitioned the New Jersey Supreme Court for certiorari and my request was denied (Appendix B).

I am firmly convinced that my lawyer conspired with the defense attorney who was an assemblyman and political figure.

The New Jersey Supreme Court wrote a precedent-setting opinion which placed me and my property in an illegal and unconstitutional position. This precedent-setting opinion has:

A. Placed an ever-present cloud on the title to my property.

B. Depreciated the value of my property.

C. Placed my property under constant scrutiny and inspection by the Defendant.

D. Made me an involuntary caretaker of a public water supply without compensation.

E. Denied me of my right to be compensated for admitted services rendered and admitted benefits received.

Remember that I did render these services at the request of the defendant at a time when our government

was urging the development of fall-out shelters and underground water supplies for survival.

My actions and deeds throughout this entire deal have been above reproach and to be treated as I have been treated is a criminal act.

The Appellate Tribunals of New Jersey have not shown any reason why the jury verdict should not be honored.

I have exhausted all legal recourse in our local courts and my constitutional rights mandate that this court relieve me of this illegal situation.

I am presently seeking legislation through my congressman to prevent the recurrence of this kind of injustice to another honest citizen.

I am enclosing my briefs which I filed with the New Jersey Supreme Court and hope and pray that this Court will direct the defendant to condemn my well and property so they can own and protect their own water supply plus cost and interest caused by their failure to negotiate in good faith.

Respectfully submitted,

JASPER C. GOULD, *Per Se*
P. O. Box 636
Bernardsville, New Jersey

[APPENDICES FOLLOW]

## APPENDIX A

**Per Curiam Opinion of the Superior Court of New Jersey, Appellate Division (A-155-70)**

---

JASPER C. GOULD, *et al.*,

Plaintiffs-Appellants,

*v.*

AMERICAN WATER WORKS SERVICE CO.,

Defendant-Respondent.

---

Argued June 1, 1971 Decided Jun 14 71

Before Judges Conford, Kolovsky and Carton.

On appeal from the Superior Court, Law Division, Somerset County.

Mr. Jasper C. Gould argued the cause *pro se*.

Mr. David G. Eynon argued the cause for respondent (Messrs. Farrell, Freeman, Eynon & Munyon, attorneys).

PER CURIAM

This action was instituted by the filing of a complaint on February 4, 1963 in the Superior Court with venue in Somerset County. At the trial thereof, held in October 1966, the court dismissed the complaint against American

*Appendix A*

Water Works Service Co., Inc. and the jury returned a verdict of $12,345 in favor of plaintiff Jasper C. Gould and against defendant Bernards Water Company (Bernards).

Bernards appealed from the resultant judgment. The Appellate Division reversed the judgment in favor of plaintiff and directed that judgment be entered in favor of defendant Bernards Water Company. The mandate on reversal was filed in the office of the Clerk of the Superior Court on November 9, 1967.

Plaintiffs applied for and were granted certification by the Supreme Court. See 51 N. J. 482 (1968). However, after hearing argument on the appeal, the Supreme Court affirmed the judgment of the Appellate Division. See 52 N. J. 226 (1968). Plaintiffs thereafter attempted to obtain a review by the United States Supreme Court but were unsuccessful. 394 U. S. 943, 89 S. Ct. 1274 (1969).

This should have ended the matter. It did not only because Bernards Water Company failed to have an order for judgment in its favor entered in the trial court pursuant to the Appellate Division's mandate on reversal. The absence of a trial court judgment "as to The Bernards Water Co." was noted by the County Clerk on the notice he sent the parties, dated June 9, 1970, notifying them that on August 11, 1970 the court would dismiss the action for lack of prosecution unless cause were shown why it should not do so. See R. 1:13-7.

On the return day of the motion, the court, over plaintiffs' objection, entered an order dismissing the action for lack of prosecution and plaintiffs appeal from that order.

## *Appendix A*

Although the trial court was correct in ruling that it was without power to grant what plaintiffs sought, in essence a reopening and relitigation of the entire controversy, the order dismissing the action for lack of prosecution should not have been entered. The fact is that the action had been prosecuted to a conclusion both at the trial level and in the appellate courts. All that remained to be done in the trial court was to enter a judgment in favor of defendant Bernards Water Company in accordance with the mandate of the appellate courts.

The order dismissing the action for lack of prosecution is therefore reversed and the matter remanded to the trial court for entry of judgment in favor of defendant Bernards Water Company as directed by the mandate for reversal filed in the Superior Court on November 9, 1967.

No costs to either party.

## APPENDIX B

### Order of Supreme Court of New Jersey Denying Petition for Certification

SUPREME COURT OF NEW JERSEY

C-36 September Term 1971

---

JASPER C. GOULD, *et al.*,

Plaintiffs-Petitioners,

*vs.*

AMERICAN WATER WORKS SERVICE CO.,
BERNARDS WATER COMPANY,

Defendant-Respondents.

---

To Appellate Division, Superior Court:

A petition for certification having been submitted to this Court, and the Court having considered the same,

It is hereupon Ordered that the petition for certification is denied, with costs.

WITNESS the Honorable Joseph Weintraub, Chief Justice, at Trenton on the 21st day of September, 1971.

IRVING B. Z——
Acting Clerk of the Supreme Court

Filed Sep 2 1971
ILLEGIBLE Clerk

## APPENDIX C

**Petition for Certification and Supplemental Appendix**

SUPREME COURT OF NEW JERSEY

DOCKET NO.

---

JASPER C. GOULD and OPAL W. GOULD, his wife,

Plaintiffs-Petitioners,

*vs.*

AMERICAN WATER WORKS SERVICE CO., INC., a corporation, and THE BERNARDS WATER COMPANY, a New Jersey Corporation,

Defendants-Respondents.

---

PETITION

*To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.*

STATEMENT OF THE CASE

This is an appeal from the "motion to dismiss for lack of prosecution" executed by Judge Meredith in Superior Court on August 11, 1970.

This action would not have been necessary if:

1. If my constitutional rights to own and protect personal property had not been denied.

*Appendix C*

2. If I had not been made a caretaker of a potable public water supply without compensation.

3. If a cloud had not been placed upon the title to my property.

4. If my lawyer had introduced all of the facts which he had at his disposal.

(a) His actions border on fraud and/or collusion.

5. If the defendant had negotiated in good faith.

This is a simple case where the defendant requested, supervised and received huge benefits on their admitted promise to pay a fair price.

Judge Leon Gerofsky, who heard pretrial argument on this case, Judge Berkley Leahy, who presided at the first trial until my lawyer quit, and Judge Victor A. Rizzolo, who presided at the final trial all decided that it was case for jury consideration.

The jury verdict in favor of plaintiff has not been challenged as to its validity and there are no indications that this verdict is the result of mistake, partiality, prejudice or passion.

The Appellate Court reversed this valid jury verdict stating that it was not a jury case and the New Jersey Supreme Court sustained the ruling of the Appellate Court and stated that the plaintiff at no time expected to be reimbursed for his expenses.

The Appellate Court ruled that it was not a case for jury consideration even though the 33 pages containing the format for a jury trial were deleted from their tran-

script (Exhibit I) and three judges who were familiar with this case previously ruled it was a jury case.

These questionable acts by the courts necessitate the motion to dismiss for lack of prosecution by Judge Meredith:

(a) Judge Rizzolo granted unjust enrichment but limited recovery to out-of-pocket expenses, thus making sure that the jury verdict would be appealed.

(b) The Supreme Court granted certification and after argument wrote an opinion containing errors in fact, thereby setting a precedent which has more value to the defendant than the case in question.

(c) The transcript of the argument before the New Jersey Supreme Court was destroyed (Exhibit J).

(d) The United States Supreme Court was too busy to hear argument (Exhibit K) on my constitutional rights.

(e) The judges at the Superior Court and at the Appellate Court refused to let me argue my brief Pro Se.

The actions of my lawyer and the New Jersey courts have placed a cloud on the title to my property; made me a caretaker of my well and property for the sole benefit of the defendant; and denied me of my constitutional rights.

## Statement of Facts

1. My well penetrated a near-vertical fault (Exhibit A) which contains millions of gallons of water. See segment of State map, Atlas Sheet No. 40.

2. The word "fault" is contained in Mr. Coleman's testimony (Exhibit B).

*Appendix C*

3. The well record of the defendant's well proves beyond any doubt that they failed to locate this fault even though they drilled to a depth of 1,450 feet (Exhibit C).

4. It was stipulated at the trial that the two wells were drawing from the same source (Exhibit D).

5. My successful well motivated their lease and subsequent acquisition of their present well site (Exhibit E).

6. I had another customer for the purchase of my well (Exhibit F).

(a) The granting of permanent diversionary rights to this water by the Division of Water Policy & Supply denies me the right to sell to another customer.

7. The defendant failed to negotiate in good faith (Exhibit G & Exhibit B).

(a) The defendant had the power of condemnation and my only recourse was the courts.

8. My lawyer failed to introduce:

(a) The law on diversionary rights.

(b) The law on public water supply.

(c) The law on condemnation.

(d) The hardship placed upon the plaintiff by the state laws.

9. No court action would have been taken if the defendant had not depreciated the value of the plaintiff's property (Exhibit H).

## *Appendix C*

### Results

Plaintiff's Position

1. I have a well on my property which I cannot use or sell because the diversionary rights to this water have been granted to the defendant.

2. I cannot seal this well because in doing so, I would be diverting a public water supply (see law on public water supply).

3. I must maintain this source of public water and protect it from sabotage, contamination, etc. without any compensation.

(a) My property is subject to inspection by the defendant and I am under suspicion if an act of God should divert or contaminate this water supply.

4. There is an ever-present cloud on the title to my property.

(a) My property is subject to condemnation by the defendant for land value only, to protect the source of public water.

5. The defendant can continue to solicit services and receive benefits without any intent to negotiate in good faith, as was done in this case.

6. The acts of these two appellate tribunals have cost me thousands of dollars and years of mental anguish which causes a rash on my face and scalp. My doctor states that it will not clear up until my mental and nervous condition improves.

## *Appendix C*

DEFENDANT'S POSITION:

1. They have huge benefits from the plaintiff's discovery of a large supply of water.

(a) The value of this water will increase with the ever-increasing need.

2. The precedent set in this case allows the defendant to solicit and receive services without any intent to negotiate in good faith.

3. The law on condemnation allows them to condemn property for the acquisition and protection of a potable water source.

(a) In this case, they can condemn my property for land value only; and thus have two wells, having only drilled one.

### CONCLUSION

The state laws on potable public waters and the questionable acts by my attorney (bordering on fraud) should mandate that this court take original jurisdiction and bring this case to an honorable and just conclusion.

Dated: June 24, 1971

### CERTIFICATE

I hereby certify that the foregoing petition presents substantial questions meriting certification and that it is filed in good faith and not for the purpose of delay.

JASPER C. GOULD, *Pro Se*

*Appendix C*

EXHIBIT

SUPPLEMENTAL APPENDIX

NOTICE OF MOTION TO DISMISS

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION—SOMERSET COUNTY

OR

SOMERSET COUNTY COURT

CIVIL ACTION

To: Stryker, Tams & Dill
744 Broad St.
Newark, N. J. 07102

McCord, Farrell & Eynon
233 Kings Highway E.
Haddonfield, N. J.

NOTE: Judgment has *not* been filed as to The Bernards Water Co.

re: Jasper C. Gould, al vs. American Water Works Service and The Bernards Water Co. Docket No. S-2771 L-12277-62

Take notice that on August 11, 1970 at 9:30 A.M. or as soon thereafter as counsel may be heard, at the Somerset County Court House in Somerville, New Jersey, the Court will dismiss the above entitled cause for want of prosecution, pursuant to R. 1:13-7. Unless written objection to the Dismissal is received by the Court at least five

(5) days prior to the return date, the action will then be dismissed without call.

LAWRENCE R. OLSON
County Clerk

Dated: June 9, 1970

If this case has been settled or otherwise disposed of, it will not be necessary for you to appear, *providing Dismissal is filed prior to return date.* If a Superior Court action, such pleading should be filed in duplicate with the Clerk of that Court in Trenton.

PER CURIAM OPINION OF THE SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION

(This Opinion is printed as Appendix A, herein at p. 1a.)

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EXHIBIT I

OFFICE OF THE CLERK
SUPREME COURT OF NEW JERSEY
STATE HOUSE ANNEX
TRENTON, N. J.

JOHN H. GILDEA
Clerk

April 14, 1969

Mr. Jasper C. Gould
P. O. Box 636
Bernardsville, N. J.

Dear Mr. Gould:

In response to your inquiry, I have examined the appendix that was used on your appeal, Jasper C. Gould

et al v. American Water Works Service Co. and find that pages 246 to 276, inclusive, of the transcript were not reproduced in the appendix.

Page 256A of the appendix consisted of page 245 of the transcript and page 257A of the appendix commenced with page 277 of the transcript.

Yours very truly,

JOHN H. GILDEA

JHG:JU

---

EXHIBIT J

OFFICE OF THE CLERK
SUPREME COURT OF NEW JERSEY
STATE HOUSE ANNEX
TRENTON, N. J.

JOHN H. GILDEA
Clerk

November 22, 1968

Herman A. Lingerman, Esq.
68 Main Street
Madison, N. J.

Re: Gould v. American Water Works

Dear Mr. Lingerman:

I find that the tape of the recording machine on which the argument in this case was recorded was demagnetized after all the cases argued on that day, May 6, 1968, had been decided. Therefore, it is impossible to provide you with a transcript of the argument.

Yours very truly,

JOHN H. GILDEA

JHG:JU

*Appendix C*

EXHIBIT K

OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C., 20543

May 15, 1969

Mr. J. C. Gould
Well and Pump Company
P. O. Box 636
Bernardsville, New Jersey 07924

Dear Mr. Gould:

In reply to your letter of May 9 addressed to the Chief Justice, as a matter of long practice, neither the Court nor the Justices ever attempted to explain or justify the Court's action in refusing to accept a case for review. Such a refusal is not considered to be a decision on the merits, but merely an exercise of the Court's discretion. Of necessity, a very large percentage of the thousands of applications we receive must be turned down and the Court cannot undertake the burden of justifying such actions.

I am sorry we cannot be more helpful.

Very truly yours,

JOHN F. DAVIS
Clerk

---

EXHIBIT A

STATE OF NEW JERSEY
DEPARTMENT OF CONSERVATION AND
ECONOMIC DEVELOPMENT

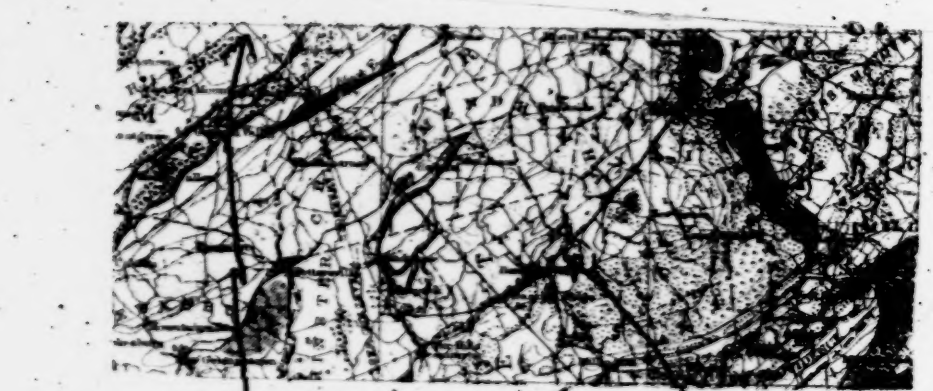
N. J. ATLAS SHEET No. 40

[PHOTOSTAT]

(Opposite) ☛

EXHIBIT A

FAULTS



rom Paulus Island, Delaware River to Raritan River edge South Amboy. Scales: Horizontal $\frac{1}{\quad}$; Vertical $\frac{1}{\quad}$; Vertical exaggeration 2¼.

## *Appendix C*

### Exhibit B

*Coleman (Direct)*

Q. I see. Are you charged with acquiring additional water sources for the Bernards Water Company? Is that part of your job? A. Well, it would be part of my job if I could do so, if I was instructed to do it, and I was naturally desirous of seeking additional sources of supply for Commonwealth and for Bernards, we always are.

Q. Did Mr. Greco suggest that you call on Mr. Gould? A. Yes.

Q. Did Mr. Greco also suggest too that Mr. Burd call on Mr. Gould? A. I don't know whether he suggested that Mr. Burd do this. At this time I don't know, but naturally I would call on Mr. Burd to go with me.

Q. All right. Now, during this period between 1957 and February, 1960, did you call on Mr. Martin? A. No.

Q. Did you call on anybody else in Bernards Township? A. Not in Bernards—well, I may have called on some people but I don't think it had any reference to this.

Q. Did you call on anybody else during this entire period for the same purpose? A. No.

Q. Are you familiar with the facts leading up to the option for this test well that has been marked on P-5 for (43) Identification? A. What do you mean the facts?

Q. Well, are you familiar with the facts or the background leading up to this? A. Oh, yes.

Q. All right. Will you tell us what you know about the Bernards Water Company having an option to buy the land on which this test well was located? A. Well, in finding that we couldn't obtain a reasonable negotiation with Mr. Gould for the purchase of his well or what we would consider a reasonable price at all, we had to seek then to obtain a water source from some other location.

*Appendix C*

We had with us at that time Mr. Bixler, who has been mentioned before, and it was part of Mr. Bixler's duties to assist management in the securing of underground sources of supply such as wells. He came out and looked this over and said, "Well, we might get a *fault* if we get down in this location and maybe we can get a piece of property to get a test well and at least see where we are."

At that time Mr. Greco suggested that I, after learning where the property was, that I contact the owners of the property to secure, if possible, an option to purchase including a right to drill, and I did. Dr. Anton P. Randazzo was the owner of the property and I went to his home. Due to the fact that he is a surgeon and not available on occasion (44) I dealt directly with his wife and I was successful in obtaining an option to purchase and to drill a well on the land.

Mr. Bohrer: All right. No further questions. Thank you.

HAROLD M. BURD, Sworn.

*Direct Examination by Mr. Bohrer:*

Q. Mr. Burd, by whom are you employed? A. I am employed by the Bernards Water Company.

Q. For how long have you been associated with that company? A. About 30 years.

Q. Are you associated with the American Water Works Service Co., Inc.? A. Through its connection with the Bernards Water Company, yes.

Q. How about Commonwealth Water, do you have anything to do with Commonwealth Water? A. No.

*Appendix C*

Q. Did you hear Mr. Coleman's testimony about his negotiations with Dr. Randazzo just now? A. Yes.

Q. Is there anything that Mr. Coleman said that you disagree with?

---

EXHIBIT C

DEPARTMENT OF CONSERVATION
AND ECONOMIC DEVELOPMENT
DIVISION OF WATER POLICY & SUPPLY
WELL RECORD

Permit No. 25-10173
Application No. 1183
County

Owner: Bernards Water Co.

Address: Bernardsville, N. J.

Owner's Well No. 1

Surface Elevation (Above mean sea level) Feet

Location: Bernards Twp., Somerset Co., N. J.

Date Completed: Mar. 14, 1962

Driller: Wm. Stothoff Co. Inc.

Diameter: top 12 Inches Bottom: 8 inches

Total Depth: 1450 Feet

Casing: Type: Drive pipe. Diameter: 12 inches
Length: 64' Feet

Record of Test: Date: Dec. 29, 1961

*Appendix C*

Yield: 412 Gallons per minute

Static water level before pumping: 36'2"

Pumping level: 96'3" feet below surface after 24 hours pumping

Drawdown: 60'1"

Specific Capacity 6.85 Gals. per min. per ft. of drawdown

How pumped: Turbine How measured: Orifice

* * *

PERMANENT PUMPING EQUIPMENT:

Type: ?

* * *

Used For: Test well

QUALITY OF WATER

Taste: None Odor: None Color: Clear

Log: See other side

Source of Data: Well statement

Data Obtained by; H. J. Stothoff Date: April 13, 1962

Record of well

8" Well 1450' deep

Drilled 12" hole 64' and cased out with 12" casing to rock and then drilled 8" hole to 1450'. Made test on the well with 200' turbine pump flow 427 GPM drawdown 96'3" from the surface after 24 hour pumping. After completing the test well was reamed out 12" diameter to 301' from the surface

*Appendix C*

**Formation**

**0′- 40′ yellow clay**
**40′- 130′ blue baked shale**
**130′- 170′ dark red rock**
**170′- 450′ red rock**
**450′- 530′ blue rock**
**530′- 636′ red rock**
**636′- 725′ blue rock**
**725′- 890′ gray rock**
**890′- 946′ red rock**
**946′-1070′ gray rock**
**1070′-1090′ red rock**
**1090′-1108′ red sandstone**
**1108′-1116′ blue rock**
**1116′-1269′ red sandstone**
**1269′-1302′ red rock**
**1302′-1320′ red shale rock**
**1320′-1335′ reddish blue sandstone**
**1335′-1378′ red sandstone**
**1378′-1402′ red & blue sandstone**
**1402′-1435′ blue shale**
**Hole measured up with tape. 1450′**
**Well drilled Aug. 16, 1961-March 14, 1962**

*Appendix C*

EXHIBIT D

(235) gentlemen of the jury we will take a short recess at this time.

(Short recess taken at this time)

(After recess)

(All members of the jury present)

(Appearances as previously noted)

Mr. Horner: We have agreed to stipulate that the two wells, the northeast well and the Gould well are supplied at least in part from the same underground source. We also agreed to stipulate that there were several offers made by the company, the highest of which was $16,000.00 to Mr. Gould.

Now, with that I can reduce my further reading to just a very few minutes.

This is at page 33 of Mr. Darnell's testimony.

---

EXHIBIT E

"Question: You knew of the probable existence of this underground resource before you started drilling the well, didn't you?

"Answer: We knew that there might be one.

(236) "Question: Well, didn't the fact that Mr. Gould had a well within 500 feet suggest to you that the probabilities were pretty good?

"Answer: Yes.

*Appendix C*

"Question: When did you complete the drilling of this well, on that date?

Interjection by Mr. Davis. "He answered that, November 12, 1962.

"Answer: That was the test.

"Question: No. The drilling.

"Mr. Davis: Pardon me.

"Answer: March 14, 1962.

"Question: During this entire period when you were associated with the Bernards Water Company in this capacity, were there any other areas where you undertook to explore or drill wells looking for possible water sources?

"Answer: Not in this particular period. There had been a lot of exploration done prior to this since '52.

"Question: I see. Do you know where?

"Answer: Not specifically, no."

---

EXHIBIT F

(121) Q. I beg your pardon? A. No.

Mr. Riddle: I would like to, if I may, just clarify that.

Were you finished?

Mr. Horner: Go ahead.

*By Mr. Riddle:*

Q. Mr. Burd, is it not true that Osborn's Pond was cleaned out to remove weeds and other possible sediment? A. Oh, yes, yes.

Q. That, I believe, possibly may be confusing the issue

here, but it was not to increase the supply or capacity? A. No, sir.

Mr. Riddle: That's all I have.

Mr. Horner: Now, I have one other statement I would like to make for the record, and that is, I have been authorized by Mayor Stirone of Morristown to state that Morristown is interested in the Gould well, provided the Gould well will produce water at the rate Mr. Gould has told them it will.

Morristown is going to put pump testing equipment on the Gould well and in the event that it

---

EXHIBIT G

HAROLD H. WADDEL
N-4 TANGLEWOOD LANE
KING OF PRUSSIA, PA.

June 3, 1959

Mr. Taylor D. Martin
Bernards Township
Bernardsville, New Jersey

Dear Sir:

I am interested in purchasing a small plot of ground, about one acre more or less, in the area adjacent to State Road (U. S. Highway 202) in the area northeast of Bernardsville. I have noted that you are listed as the owner of some undeveloped acreage in this area.

*Appendix C*

If you would consider selling a small tract out of your ownership please advise and I will arrange a meeting to discuss the matter.

Very truly yours,

HAROLD H. WADDEL
Harold H. Waddel

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EXHIBIT H

J. ALBERT MASTRO
COUNSELLOR AT LAW
8 ANDERSON ROAD
BERNARDSVILLE, N. J.

August 18, 1961

Commonwealth Water Company
11 Beechwood Road
Summit, New Jersey

Attention: T. W. Coleman, Manager

Dear Mr. Coleman:

I represent Jasper C. Gould who resides on the westerly side of Route 202, Basking Ridge, New Jersey. Mr. Gould, who is a well drilling contractor, has developed upon said premises a 10" well of which your representatives are fully aware and in the past have negotiated for the purchase thereof. As you can well appreciate, the establishment of this particular well represents a substantial investment by my client and the anticipated capacity thereof reflects a very valuable asset.

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I have been informed by my client that the water company is presently endeavoring to drill a comparable well on adjacent property situated on the easterly side of Route 202. In view of the fact that the well being drilled is in close proximity to the well presently in existence and owned by my client, indications are that the source and capacity of my client's well will be appreciaby affected. In such an event the value of my client's well will be greatly depreciated.

This is to advise that my client will seek damages in the event that the value of his well is so depreciated.

Very truly yours,

J. Albert Mastro

JAM:bjz

cc. American Water Works Company

## APPENDIX D

**Reply-Brief for Plaintiffs-Appellants**

In The
Supreme Court of New Jersey
Docket 3 A 155 70

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Jasper C. Gould

Plaintiffs-Petitioners

vs.

American Water Works Service Co.
Bernards Water Company

Defendant-Respondents

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Civil Action—Petition for Certification

Reply Brief

Present status of the parties creates such hardships and inequities that when Judge Meredith's court notified Petitioner that there would be a hearing on the Motion to Dismiss in the matter of Gould vs. American Water Works, Petitioner sought to explain to the court the problems which are as follows:

1. Petitioner Gould is on record as having hit the fault and Defendant had not.

*Appendix D*

2. Petitioners' well is the source of water for the Defendant's well.

3. Both wells still exist and although Petitioner had drilled first and was the discoverer of the source and the only party to hit this source directly (as proven by Defendant's well record) the Division of Water Policy and Supply granted to the Defendants diversionary rights over Plaintiff's objections.

4. Petitioner cannot seal and abandon his well because in so doing he would be diverting a potable water supply.

5. Plaintiff can't sell his well and adjacent property to a customer since there is a "cloud upon the title" in the sense that any interested purchaser would have to seek approval for joint diversionary rights with Defendant and this legal proceeding and doubtful outcome makes future sale to anyone other than the Defendant tantamount to being non-existent. (Needless to say in the bargaining with the Defendant, if they were to become interested in Plaintiffs' well as a protection for the source of this water, the Plaintiff would be in the unfair bargaining position of trying to negotiate and if the negotiations fail to reach the agreement, the Defendant still would have the right and power to exercise condemnation.)

In summation, Plaintiff has continuously claimed to be in control through his well, of the source of water for which Defendant has diversionary rights. Plaintiff cannot seal his well since in doing so he would be violating the law by diverting an existing water supply. Plaintiff can't sell the property at a reasonable price and finally stands in

the position of being suspect for any contamination that may arise which would adversely effect the water source.

Thus Plaintiff stands as a custodian of a water supply for which he has been denied compensation, can't sell and stands constantly in jeopardy of being accused or held accountable for contamination.

The inequity and hardship was what Plaintiff tried to tell Judge Meredith about and for which relief was sought in the Appellate Division.

Plaintiff contends that these inequities are the matters contemplated in the rules when it states ". . . if the interest of justice requires."

It is for correction of these matters that we urge the Court to grant our petition for certification.

Plaintiff-Appellant agrees with Defendant-Respondents' reply brief in two major points. The first is that the cases cited (Gould vs. American Water Works Service Co., Inc., 52 NJ 226 Supreme Court 1968 and Gould vs. American Water Works Service Co., Inc., Supreme Court of N. J., App. Div. A155-70 decided June 14, 1971) are interrelated. The second point of agreement is that the New Jersey Supreme Court has limitations, when it can accept petitions for certification.

We contend that based on the hardships explained above which were created by the above cases, either directly or indirectly, this court has the jurisdiction to grant our petition for certification as requested.

Defendant-Respondent cites the rule R:2:12-4 which is as follows:

Specific attention is drawn to ". . . in other matters if the interest of justice requires." and the exception to

*Appendix D*

Appellate Division's final decisions ". . . except for special reasons."

Both of these reasons are applicable to the present case and support the contention that justice requires a review and resolution of the problems, hardships and inequities created from these prior decisions of the courts of New Jersey in this matter.

JASPER C. GOULD, *Pro Se*
P. O. Box 636
Bernardsville, New Jersey